

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JERMAINE JOHNSON,	:	Case No. 1:07CV2473
Petitioner,	:	
	:	JUDGE KATHLEEN O'MALLEY
v.	:	
CLIFFORD SMITH, Warden,	:	<u>ORDER</u>
Respondent.	:	

Jermaine Johnson has filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 arising out of his 2005 convictions and sentencing for trafficking in cocaine, possession of cocaine, and other crimes, in the Lorain County, Ohio, Court of Common Pleas (Doc. 1). Johnson raises three grounds for relief in his petition, all of which generally relate to the alleged violation of the terms of a plea agreement he reached with the state of Ohio.¹

¹ Johnson's three grounds for relief, as paraphrased from his petition, are as follows:

- (1) "The State of Ohio breached the terms of the plea agreement when it failed to inform the court in a subsequent sentencing hearing that an agreed sentence was required to fulfill the terms of the agreement," in violation of Petitioner's Fourteenth Amendment due process rights.
- (2) "The trial court erred when it did not impose the agreed upon sentence," in violation of Petitioner's Fourteenth Amendment due process rights and his "right to contract enforcement."
- (3) Petitioner received ineffective assistance of appellate counsel when she failed to file a brief on the merits, in violation of the Sixth Amendment.

Pursuant to 28 U.S.C. § 636 and Local Rule 72.2(b)(2), Johnson's petition was referred to Magistrate Judge Kenneth S. McHargh for preparation of a report and recommendation ("R&R"). Upon review of the parties' submissions, the Magistrate Judge issued a R&R, recommending that Johnson's petition be denied (Doc. 18). In particular, the Magistrate Judge concluded that:

(1) Johnson's petition should be denied on statute of limitations grounds, because it was not timely filed under the Antiterrorism and Effective Death Penalty Act of 1996, 28 U.S.C. § 2244; and (2) even if Johnson's petition had been timely filed, Johnson would not succeed on the merits of his claims concerning his plea agreement.

Johnson has not filed any objections to the R&R.² Because, after its *de novo* review, the Court reaches the same conclusions as the Magistrate Judge, no further articulation of its reasoning is required. *Tuggle v. Seabold*, 806 F.2d 87, 92-93 (6th Cir. 1986). Accordingly, the Court hereby **ADOPTS** the Magistrate Judge's R&R. Johnson's petition is **DENIED**, and his case is **DISMISSED**.

IT IS SO ORDERED.

s/Kathleen M. O'Malley
KATHLEEN McDONALD O'MALLEY
UNITED STATES DISTRICT JUDGE

Dated: October 10, 2008

² The R&R was issued on July 30, 2008 (Doc. 18). On August 11, 2008, the R&R addressed to Johnson was returned to the Clerk's Office (Doc. 19). On August 27, 2008, the Clerk's Office confirmed Johnson's mailing address and re-sent the R&R to Johnson. To date, there has been no further activity in the case that is reflected on the docket, including any indication that Johnson did *not* receive the re-sent R&R.